

10. The check transport system of claim 1 wherein the statistical element is based on the occurrence of any dishonored payment associated with the previous transactions using the customer identifier.

11. The check transport system of claim 1 wherein the unique customer identifier is a driver's license number of a customer operating the customer computer.

13. The check transport system of claim 1 wherein the unique customer identifier is selected from the group consisting of: a driver's license number, a phone number, a bank transit and routing number of an account of a customer operating the customer computer.

14. The check transport system of claim 1 wherein the data structure further matches the customer identifier to the bank name, the customer name, and the bank routing information.

15. The check transport system of claim 1 wherein the check is further electronically transmitted to the bank and includes information not transferable over the ACH system.

REMARKS

Applicant has significantly amended the claims to better emphasize an important feature of the present invention of providing electronic transmission of a check without changing the legal character of the check. In this respect, the present invention produces a physical, printed check having the features of a normal check including bank routing code, customer name, payment amount, and magnetic ink (MICR) numbers necessary for processing through normal paper check processing channels. Coverage by the claims is clearly demarcated by this limitation of requiring the production of a paper check. Support for these limitations are found in the application at page 7, lines 10-15 and 28-30, page 9 lines 20-24, and page 10 lines 14-16, among other places.

Neither Templeton nor Rowney individually or in combination teach recreating a paper check from electronic information provided by a customer over the Internet. In this regard, it is noted that electronic checks or e-checks are not checks as they are not evidenced at the payor by a paper document as is clearly and specifically required in the present claims. Thus it is believed that the claims as amended are novel over the cited art.

The Applicant has further submitted the affidavit of Paul Green explaining some of the benefits of pure check transactions in making Internet buying accessible to a broader

cross-section of individuals, and explaining some of the problems in translating normal check validation mechanisms to the Internet, most notably, the lack of a physical check that can be viewed by the merchant. As noted in that affidavit, CrossCheck has now implemented this invention in a commercially successful product under the tradename of ChecksByNet. The commercial successful is directly attributable to the claimed elements of the present application which allow pure check transactions on the Internet and the benefits described above related to the use of a pure check transaction.

It is believed that combinations of the cited references do not meet all the limitations of the claims and do not rebut the nonobviousness of the invention indicated by its commercial success. Accordingly, the applicant submits that claims 1-15 are now in condition for allowance and allowance is respectfully requested.

Respectfully submitted,

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By

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1. (twice amended) A check transport system [An Internet-based payment validation system] comprising:

a merchant computer programmed to communicate with the Internet to create an Internet site listing products for sale and indicating [a direct payment option from] an option for payment by check drawn on funds held by a third party bank;

a customer computer [programmed to communicate on the Internet and to communicate] communicating with the merchant computer to identify the product desired to be purchased and to select the [direct] check payment option, the customer computer further [programmed to accept] transmitting at least one unique customer identifier [from a customer and communicate the same] over the Internet; and

a processor computer programmed to receive at least one customer identifier from the merchant computer in response to a selection of the [direct] check payment option, the processor computer further including a data structure matching the customer identifier to at least one statistical element indicating a probability of a payment obligation by the customer being honored, and based on that matching statistical element [and, without communication with the third party,] transmitting to the merchant computer an authorization indication indicating whether [direct] check payment for the product should be accepted and when check payment should be accepted, generating a printed check including the customer's name, the third party bank name, a check amount, and further including bank routing information;

whereby the printed check may be processed using standard check processing channels.

2. (twice amended) [The Internet-based payment validation] The check transport system of claim 1 wherein the statistical element is based on a factor selected from a group consisting of a total price of the identified product, the price and timing of previous purchases of other products using the unique customer identifier, the type of identified product and the occurrence of any dishonored payment associated with the previous transactions using the customer identifier.

3. (twice amended) [The Internet-based payment validation] The check transport system of claim 1 wherein the authorization indication provides the following responses:

(1) an indication of not authorized, indicating that the acceptance of [direct payment] a check is not advised,

5 (2) an indication of authorized with no guarantee, indicating that the acceptance of [direct payment] a check is acceptably subject to the discretion of the merchant, and

 (3) and indication of authorized with a guarantee indicating that the amount of the [direct payment] check will be guaranteed [by an authority operating the processor computer].

 4. (amended) The [Internet-based payment validation] check transport system of claim 1 [wherein the directed payment option is payment by check and wherein the data structure includes a bank routing code and] wherein the processor computer further transmits to a [magnetic ink] printer [at the merchant's computer] information to cause the printing of a
5 check for the purchase of the merchandise.

 8. (amended) The [Internet-based payment validation] check transport system of claim 1 wherein the statistical element is based on a total price of the identified product.

 9. (amended) The [Internet-based payment validation] check transport system of claim 1 wherein the statistical element is based on the price and timing of previous purchases of other products using the unique customer identifier.

 10. (amended) The [Internet-based payment validation] check transport system of claim 1 wherein the statistical element is based on the occurrence of any dishonored payment associated with the previous transactions using the customer identifier.

 11. (amended) The [Internet-based payment validation] check transport system of claim 1 wherein the unique customer identifier is a driver's license number of a customer operating the customer computer.

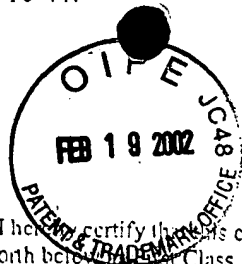
 13. (amended) The [Internet-based payment validation] check transport system of claim 1 wherein the unique customer identifier is selected from the group consisting of: a driver's license number, a phone number, a bank transit and routing number of an account of a customer operating the customer computer.

 14. (new) The check transport system of claim 1 wherein the data structure further matches the customer identifier to the bank name, the customer name, and the bank routing information.

15. (new) The check transport system of claim 1 wherein the check is further electronically transmitted to the bank includes information not transferable over the ACH system.

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I hereby certify that this correspondence is being deposited with the United States Postal Service on the date set forth below in First Class Mail in an envelope addressed to:
Commissioner for Patents, Washington, D. C. 20231.

Date of Signature and Deposit: February 8, 2002

Attorney of Record

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Timothy LaBadie et al.
Serial No.: 09/259,619
Filed: March 1, 1999
For: Internet Based Payment System
Group Art Unit: 2761
Docket No.: 210655.90018

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DECLARATION UNDER 37 CFR §1.132

Commissioner for Patents
Washington, D. C. 20231

Dear Sir:

I, Paul H. Green, hereby declare that :

1. I am the former co-chairman of the board of CrossCheck, Inc., the assignee of the above-referenced application and a co-inventor of the invention described in this application.
2. I have worked in the banking industry for over twenty-five years including eighteen years with CrossCheck, Inc. and before that in the capacity of President with the Telecredit company, a predecessor to Equifax, a leading consumer credit company with revenues of over \$1,000,000,000. I am publisher of a newsletter reporting on issues related to check processing and validation and am author of the book Checks at the End of the Twentieth Century and Beyond, currently employed by the Federal Reserve Bank. As such, I am generally familiar with the commercial solutions for the processing of checks and their drawbacks.

3. I am familiar with the prosecution of the current application and the Templeton and Rowney applications now cited against the current application.
4. The present application, as amended, relates to the transport of checks. Checks are demand instruments, meaning that they are payable, if at all, only when presented to the named bank and only against funds in an identified account held by that bank. If no funds are held, no payment is made. This differs from a credit instrument which relies on a contract between the bank and the bank customer.
5. Processing checks can be a cumbersome operation requiring the physical transport of large quantities of paper instruments. Rowney represents one solution to this problem, termed generally: "check truncation", "check conversion", and "electronic check presentment". Through these mechanisms, the check is converted to a credit instrument that may be transmitted electrically over a variety of different networks including the ACH system.
6. A significant problem with check truncation is that in order for a check to be converted to a credit instrument, it must be sent to an organization having a pre-existing relationship with the issuing bank and its customer such as allows for enforceable credit obligations. This severely limits the flexibility of the merchant in using these systems. For instance, people having checking accounts through credit unions cannot use the ACH system for check truncation.
7. The present invention may be distinguished from Rowney and other check truncation systems by the fact that the check is not converted to a credit instrument, but remains a check throughout its life. This legal concept, from which many benefits flow, is manifest structurally by the fact that a paper check is ultimately presented to the payor bank. The paper check satisfies the necessary legal elements to be cashed as a check.
8. Rowney does not produce or teach the production of a paper check from information transmitted from the consumer electronically, as is

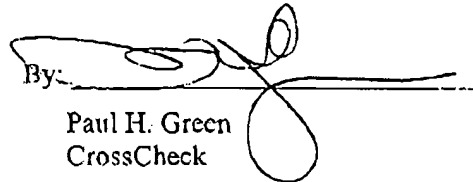
required in the amended claims of the present invention. One reason for this is that Rowney is concerned with Internet transactions where the merchant and customer are not face-to-face. Pure check transactions are not practical in this situation because the merchant does not have a physical check presented by the customer and therefore cannot vouch for any of the information required to recreate a check electronically. In contrast, the credit based transaction of Rowney requires only accurate identification of the customer and a pre-existing contract with that customer. Rowney provides complex methods of validating the customer's identity including the need for a secure Internet connection, and then relies on the credit contract.

9. The present invention allows actual payment with a check in an Internet transaction by using a statistical database linking individuals to probability of payment. The statistical database solves the problems of remote transactions by rolling the uncertainty of the individual's identity into the statistical mix. The check need not be and is not truncated.
10. The CrossCheck invention enfranchises individuals who for one reason or another do not have credit cards or credit privileges to use the Internet for purchasing goods and services. The CrossCheck invention provides true check transactions over the Internet, avoiding the need for the ACH system, special credit relationship with payor banks, or other complex verifications systems or pre-existing contracts with given customers. As such the CrossCheck invention accommodates the open nature of the Internet.
11. Each of the limitations that are now incorporated into claim 1, in which a remote processor computer makes the statistical analysis of the likelihood of payment and generates a printed check from the information conveyed over the Internet, described a product currently available from CrossCheck under the name of ChecksByNet. A demonstration of this system is available at www.ChecksbyNet.com.

12. The ChecksByNet product has been commercially successful having thousands of customers and merchants. This success is attributable directly to the elements of claim 1 of the present application which are necessary and sufficient to allow Internet transaction using a check as the instrument ultimately delivered to the bank.
13. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under §1001 of Title XVIII of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Further Declarant sayith not.

Dated: Feb 2002

By: 
Paul H. Green
CrossCheck

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